



January 18, 2018

**Attorneys at Law**  
Alabama  
Florida  
Louisiana  
Mississippi  
**South Carolina**  
Tennessee  
Texas  
Washington, DC

**John F. Beach**  
Direct: 803.343.1269  
E-Fax: 803.343.1224  
john.beach@arlaw.com

**FILED ELECTRONICALLY**

The Honorable Jocelyn G. Boyd  
Clerk

**South Carolina Public Service Commission**

Post Office Drawer 11649  
Columbia, South Carolina 29211

RE: Application of Daufuskie Island Utility Company, Inc. for Approval of Water and  
Sewer Rates, Terms and Conditions  
**Docket No. 2014-346-WS**

Dear Ms. Boyd:

I am writing on behalf of Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc., and Bloody Point Property Owner's Association (the "POAs") in response to Tom Gressette's January 16, 2018 letter to you and John Guastella's January 16, 2018 letter to Mr. Gressette, which Mr. Gressette included in his letter to you.

I am mystified why Mr. Guastella is bringing the nature of DIUC's actions to the Commission's attention. Neither I nor the POAs wanted to do that. But, by making inaccurate and unsupported assertions against my clients, Mr. Guastella has now forced me to set the record straight.

**The Commission's December 20, 2017 Directive does not Authorize DIUC's Fourth Quarter Billing.**

The Commission has only issued a directive in this matter, not an order. Consistent with the Commission's normal practice, the December 20, 2017 directive ("Directive") establishes this by stating the Commission will "issue a full written **Order** at a subsequent time, explaining all adjustments and rate matters..."<sup>1</sup>

- a. The Directive directs DIUC to do the following, *after issuance of the Order*:
  - i. Design and file rates that produce the revenue increase granted in *the Order*;

---

<sup>1</sup> Moreover, the Directive does not state "THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE, language the Commission includes in the unusual circumstance where the directive also serves as the Commission's order.

- ii. File a schedule with the Commission demonstrating DIUC's rate design produces the revenue granted in *the Order*;
- iii. Share these documents with other parties in the case so they can verify DIUC's proposed rates are consistent with the provisions of *the Order*;
- iv. Refund the difference between the amount allowed by *the Order* and the amount actually billed, along with 12% interest, calculated from the date DIUC placed its originally requested rates into effect under bond.

**South Carolina Law Prohibits DIUC's Fourth Quarter Billing.**

In his letter, Mr. Guastella attempts to indict Haig Point's CEO, Doug Egly, with the following claim: "Mr. Egly makes totally false accusations that DIUC did not comply with the PSC's regulations and invoiced the customers without a formal order and approved rates." As explained below, *Mr. Egly characterizes DIUC's premature 4<sup>th</sup> quarter billing with complete accuracy.*

Sewer and water utilities regulated by the Commission must lawfully bill new rates in compliance with S.C. Regs. 103-503 and 103-703. These regulations prohibit DIUC's premature billing of new sewer and water rates through the following requirements and prohibitions:

- A. No schedule of rates...shall be changed until after the proposed change has been approved by the commission.
- B. All rates...proposed to be put into effect by any utility...shall be first approved by this commission before they shall become effective....
- C. No rate...of any utility...shall be deemed approved or consented to by the mere filing of a schedule, or other evidence thereof, in the offices of the commission.

As shown above, these "rates" implemented by DIUC simply have not been approved by the Commission. Therefore, DIUC has acted unlawfully by charging unsanctioned and unapproved rates for the fourth quarter, 2017 and using those rates to calculate credits.

Mr. Guastella is, therefore, incorrect when he characterizes Mr. Egly's statements as "totally false accusations." Mr. Egly's statements, which he made with my review and approval, are accurate and correct.

Mr. Guastella also fails to inform the Commission of an important part of Mr. Egly's letter, where he states: "Please note that this is a temporary payment boycott and that our attorneys expect to resolve billing issues before the 1/31/18 payment deadline."

The Honorable Jocelyn G. Boyd

Page 3

January 18, 2018

---

Mr. Egly's letter was a necessary response to the massive customer confusion DIUC's premature and unexplained 4<sup>th</sup> quarter billing has caused. Immediately following DIUC's January 1, 2018 billing, Mr. Egly's office was inundated with communications from POA members questioning the bills and pointing out inaccuracies and perceived inaccuracies. Customers understandably questioned whether their timely payment would result in DIUC asserting they had "accepted" DIUC's otherwise improper rates and credit calculations.

We reviewed sample bills, confirmed they did not include a statement of the new rates DIUC had chosen to apply or an explanation of the credit, and included patent mathematical inaccuracies.

Our analysis makes us confident DIUC's 4<sup>th</sup> quarter bills were unlawfully issued and mathematically inaccurate. We are concerned if customers pay these bills in a timely fashion, DIUC will argue their payment constitutes an "acceptance" of the new rates and credits. On the other hand, non-payment by the January 31, 2018 deadline, while we believe legally appropriate, would create uncertainty and expense.

Faced with these two imperfect options, I informally reached out to Mr. Gressette in an effort to clear up the confusion and agree upon a way forward. The result was Mr. Guastella's January 16, 2018 letter.

We have studied Mr. Guastella's letter and its financial calculations. In spite of our best efforts, his mathematical explanations are nonsensical. In particular, Mr. Guastella's effort to justify applying less than 15% and 18% interest for the 5<sup>th</sup> and 6<sup>th</sup> quarters defies any mathematical or accounting principles of which we are familiar.

Overriding all of this is the inescapable fact that DIUC changed its rates and attempted to issue credits before the Commission has issued its Order. DIUC's premature actions now place the POAs in the unfortunate position of having to decide whether or not they will pay DIUC's unlawful billing.

Sincerely,

s/John F. Beach  
John F. Beach

JFB/lbb

cc: parties of record (via electronic mail service)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2014-346-WS**

RE:

Application of Daufuskie Island Utility  
Company, Inc. for Approval for Water  
and Sewer Rates, Terms and Conditions

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day the **Letter to Jocelyn Boyd** via  
electronic mail service as follows:

G. Trenholm Walker, Esquire  
[Walker@wgflaw.com](mailto:Walker@wgflaw.com)

Thomas P. Gressette, Esquire  
[Gressette@WGFLAW.com](mailto:Gressette@WGFLAW.com)

John Bowen  
[jbowen@mcnair.net](mailto:jbowen@mcnair.net)

Peg Fox  
[pfox@mcnair.net](mailto:pfox@mcnair.net)

Andrew Bateman  
[abateman@regstaff.sc.gov](mailto:abateman@regstaff.sc.gov)

Shannon Hudson  
[shudson@regstaff.sc.gov](mailto:shudson@regstaff.sc.gov)

David Butler  
[David.Butler@psc.sc.gov](mailto:David.Butler@psc.sc.gov)

s/John F. Beach  
John F. Beach

January 18, 2018  
Columbia, South Carolina